

THE MADRAS LEGISLATIVE COUNCIL.

Thursday, 29th November 1923.

The House met at 11 o'clock, the Chairman (Mr. M. RATNASWAMI) in the Chair.

I

ELECTION OF TWELVE MEMBERS TO THE SENATE.

Mr. M. RATNASWAMI (*from the Chair*):—"With reference to section 14 of the Madras University Act, 1923, the Council will now proceed to elect twelve members to be members of the Senate according to the principle of proportionate representation by means of the single transferable vote.

"Nominations for these seats will be received by the Secretary at 2 o'clock this afternoon."

Mr. A. RAMASWAMI MUDALIYAR:—"Sir, I should like to raise a point of order on this agenda, item 1 of which says that the election should be according to the principle of proportionate representation by means of the single transferable vote. The Statute clearly lays down under section 14 of the Madras University Reorganization Act that the only constituency which exercises this right of voting by means of the single transferable vote is the constituency of registered graduates. But the constituency of the Legislative Council, which has to return twelve members, has not been given the right of choosing its members by means of the single transferable vote. As a matter of fact, discussion was raised on this specific issue during the course of the debate on the Bill, and the system of single transferable vote was confined only to the registered graduates. My hon. Friend, Mr. Ramachandra Rao, the late Leader of the Opposition (laughter), or the Leader of the late Opposition, if I may correct myself, raised this issue. At page 1545 of the printed Proceedings of this Council for 1923 (that is, the proceedings relating to the discussion held on 1st February 1923), will be found the following words given expression to by myself at that time:

' . . . If my hon. Friend will go through the list he will find that all other electorates are well-defined bodies . . . the Corporation is a constituted body; the Academic Council is a constituted body; but the registered graduates are not a constituted body. It is an inchoate body; its members never meet; they have no opportunity of meeting each other; they do not know what the electorate is . . . and that is the reason, the vital reason, why this principle of proportionate representation was introduced into this particular electorate.'

"My hon. Friend Mr. Ramachandra Rao then said:—

' . . . Even in well-defined bodies there is the method of proportionate representation—for instance in the election of persons to the Standing Finance Committee and the Public Accounts Committee . . . Why should then in the matter of election of representatives of this Council to the Senate this principle be considered unsuitable? There are also other electorates mentioned in the Bill. . . .'

and so on. As a matter of fact, the Council held that this principle should hold good only in the case of the registered graduates and that it was unnecessary to apply it in the case of other bodies. I think, therefore, that, in view of the language of the Act and in view of the discussion we had on the Bill, it would be *ultra vires* for the President to elect the twelve members

[Mr. A. Ramaswami Mudaliyar] [29th November 1923]

to the Senate according to the principle of proportionate representation by means of the single transferable vote. I understand that the Registrar of the University has been given instructions to request the President to arrange for the election in any manner he chooses, and I understand further that the method of election was asked to be defined by rules: whether it should be by the system of proportional voting, or whether it should be at a meeting of the Legislative Council by open ballot or secret ballot and so on. But I do not think we can superimpose all these conditions when this system of proportionate representation has been deliberately precluded by the Act and by the discussion that took place on it. I, therefore, think it would be *ultra vires* for the President to regulate this election by means of the single transferable vote."

Mr. C. RAMALINGA REDDI :—" May I point out to you, Sir, who is also a member of the Vice-Chancellor's Committee, that this very point was discussed, and that a tentative proposal of the Registrar that this election also should be held according to the principle of proportionate representation was thrown out by the Vice-Chancellor's Committee, which pointed out the provision specifically restricting this mode of election only for the election by the registered graduates, and that neither under the rules, nor by any power vested in the Vice-Chancellor, could we extend the scope of such election by the single transferable vote to other electorates constituted under the Act, such as the Madras Legislative Council? Under these circumstances, I would suggest to you, Sir, with due respect, that it would be better to postpone this item on the agenda till the hon. the President would be in a position to give a ruling on the point."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, speaking off-hand, I am inclined to the opinion that where a statute prescribes certain electorates as those in respect of which the principle of proportionate representation is to be exercised, no other electorate can exercise the franchise in that manner (Hear, hear). From that point of view, Mr. President, may I suggest for the consideration of this House that we pass on to the next item in the agenda? The matter may be set right later on, as it is quite within the jurisdiction of the President who may, at any time, direct that the hon. Members of this House may exercise that franchise."

The motion that the House do pass on to the next item in the agenda was put and carried.

II

AMENDMENTS TO STANDING ORDERS OF THE LEGISLATIVE COUNCIL.

The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, under Standing Order No. 75, I have given notice of certain draft amendments to the Standing Orders of the Legislative Council. I move for leave to bring forward those amendments, and I take it that the procedure indicated under Standing Order No. 76 will now be observed."

(At this stage the hon. the President took the chair.)

The hon. the President then read the following draft amendments to the Standing Orders of which notice was given by the hon. Mr. C. P. Ramaswami Ayyar :—

Standing Order No. 46 (1).

For the words 'six clear days' substitute the words 'ten clear days'.

29th November 1923]

Standing Order No. 46 (2).

For existing Standing Order No. 46 (2) *substitute* ' (2) The Secretary shall cause to be printed and made available for the use of members every notice of an amendment received within the time prescribed under sub-clause (1) and any other such notice that the President may direct to be so printed and made available '.

Standing Order No. 49 (3).

For existing Standing Order No. 49 (3) *substitute* ' (3) Where the objection prevails the Bill shall not be brought forward earlier than three days from the day on which the consideration of the Bill was concluded in Council, and may then be passed with or without further amendment.'

Note.—This clause shall not apply to taxation Bills.

The hon. the PRESIDENT :—" I have now to ask the House whether the hon. Member has the leave of the Council to go ahead with these proposed amendments."

11-15 a.m. Mr. S. SATYAMURTI :—" Sir, I beg to suggest to the hon. the Law Member, if I may, that he may take this up at the December Session. I shall give my reasons . . ."

The hon. the PRESIDENT :—" The hon. Member cannot make any speech, or offer any suggestion at this stage. He can simply say, ' I object '. Then it is my duty to find out whether the hon. the Law Member has got the leave of the Council."

Mr. S. SATYAMURTI :—" If I can only say that, Sir, I say I object."

The hon. the PRESIDENT :—" Yes ; this is one of those instances in which a Member has to object without giving any reasons."

Mr. S. SATYAMURTI :—" If I have got reasons for the objection, may I state them, Sir ? "

The hon. the PRESIDENT :—" No ; the time of the Council is precious. The hon. Member's objection is quite sufficient under the rules guiding the matter under reference."

The motion was then put to the House and the hon. the PRESIDENT said :—" As 20 members have risen in support of the amendments, I hereby rule that the hon. Member has the leave of the Council to go forward."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, under Standing Order No. 77, when the Member has the leave of the Council to proceed, the draft amendments are to be referred to a Select Committee, of which the President should be Chairman, and the Deputy President and a Chairman of the Council nominated by the President should be members. The remaining members shall be selected by the Council by means of the single transferable vote in accordance with the regulations framed in this behalf by the President."

The hon. the PRESIDENT :—" I have now only to appoint a Chairman of the Council as one of its members, and I appoint the Raja of Ramnad, a Chairman of the Council, for this purpose. The remaining members, six in number, shall be elected by the Council by means of the single transferable vote, and I have to appoint a period within which notice should be given if any Member desires to propose any candidate for election. I fix 2 p.m. to-day as the time within which such notices should be given."

[29th November 1923]

Item I on the Agenda—Election of 12 Members to the Senate—cont.

The hon. the PRESIDENT:—"Then, with reference to item No. I on the agenda, I believe, the election is to proceed according to the principle of proportionate representation by means of the single transferable vote. That is the usual way in which we do things in this House. At the same time, I do not want to impose on the House any particular procedure. Will the hon. the Law Member kindly tell us what the point is?"

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Mr. President, Sir, before you arrived, the question was raised and I stated that, inasmuch as the University Act has provided specifically for certain cases in which the election should be by means of the principle of proportionate representation, in respect of electorates not so specified that principle should not be extended. Inasmuch as the question was suddenly raised to-day and has not been referred either to the lawyers of the Crown or to myself, I said off-hand that my tentative conclusion was that the principle of proportionate representation was not strictly applicable. The result is, according to the reference which has come to you, Mr. President, from the Registrar, you can direct the exercise of the vote by post, if necessary, so that the members of the House, if they cannot exercise their franchise to-day, may send their votes by post. It is within your discretion, Sir, to direct that."

The hon. the PRESIDENT:—"Before proceeding further, I should like to know what the wishes of the members generally are. Has Mr. Satyamurti anything to say on the matter?"

Mr. S. SATYAMURTI:—"I have no particular wish, Sir, but I think, constituted as the House is, perhaps it would be better if we have the principle of proportionate representation by means of the single transferable vote."

The hon. the PRESIDENT:—"The hon. Member will see that the Law Member thinks that inasmuch as the Act is silent on the matter, probably I have not got the power to direct that particular method to be adopted in this case, and I do not want to do it."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"I may say, Sir, in order to set all doubts at rest, that the matter may be formally referred to the learned Advocate-General and on his opinion you may act."

Sir K. VENKATAREDDI NAYUDU:—"May I say a word, Sir? I take it that it would be agreed that it is one of the recognized principles of the canons of construction of statutes that, when a particular provision has been made with reference to a particular point and it has been omitted in the case of others, it means—and it is taken for granted in courts of law—that that principle does not apply to those portions where it has been omitted. In this case we find that this principle of proportionate representation by means of the single transferable vote has been confined to a particular electorate defined in the Act itself, and where other electorates have been mentioned, no provision similar to that has been made. It stands to reason, Sir, and I take it that any court of law will allow it, that that principle, therefore, cannot be applied to any other election which is contemplated in the Act. I should think, Sir, that the matter is so very elementary that, if I may say so with great respect to the hon. and learned Law Member, it is unnecessary to send it to the Advocate-General."

29th November 1923]

The hon. the PRESIDENT :—“ Before we go into any legal discussion, I may say, though I am not much of a lawyer myself, that I have rather got a general idea that it is in these elementary matters that we do sometimes stumble badly. So, on the whole, as it is a matter within my discretion, I would prefer to take legal advice. I do so with due deference to the hon. Members who have already spoken and to the other hon. Members who wish to further enlighten me on this subject. So, I have decided to refer the matter to the hon. the Advocate-General, and as soon as his opinion is received, I shall act according to it. That ends the matter.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“ With reference to the election itself, may I say a word, Sir? It was said that the voting may be done by post. I suppose we are going to meet here on the 8th or 9th December. Is it not better in that case that we hold the election then instead of having the nominations sent by post and so on? ”

The hon. the PRESIDENT :—“ The hon. Member is probably right. The hon. the Law Member's suggestion for postponement is only a casual suggestion. It does not bind any body, and certainly it does not bind me. As soon as I get the Advocate-General's opinion, I shall look into the matter carefully and arrange it in such a way that it will be most convenient to hon. Members. I hope they will rely upon me to do that.”

III ELECTION OF MEMBERS TO THE FINANCE COMMITTEE.

The hon. Sir CHARLES TODHUNTER :—“ Mr. President, I beg to make the following motion which stands against my name :—

‘ In accordance with resolution No. 17 passed at the meeting of the Council on 1st April 1921 regarding the constitution of a Finance Committee, this Council do proceed, on a date to be fixed by the hon. the President, to elect six members to be members of the Committee for the remainder of the year 1923-24. ’

“ On the 27th March 1923, the Council accepted a motion made by me requesting the existing members of the Finance Committee and the Retrenchment Committee to continue to exercise their functions. In making that motion I explained that I did so because the Retrenchment Committee was then engaged in making a very far-reaching inquiry and because it would be a pity to break it up in the middle and possibly recommence a large part of the inquiry. As regards the Finance Committee, there was very little work likely to be arising for them to do during the recess and, therefore, I suggested that the existing Committee might carry on such work as there was, while leaving it entirely to the option of the House to say whether they would have a new Finance Committee or not. Since then these Committees have ceased to exist by the dissolution of the Council on the 11th of September, but we have asked the Retrenchment Committee by an executive order of Government to carry on until the close of their inquiry. Now that a new Council has been formed, it is necessary that we should have a Finance Committee as soon as possible to deal with the large amount of work that has arisen in connexion with the examination of budget proposals, schemes for new expenditure for the current year, supplementary estimates and other matters that are ready for disposal. The method of election of this Committee, Sir, is prescribed by the hon. the President, and the method hitherto pursued is that of the single transferable vote.”

[29th November 1923]

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I beg to second it."

The motion was put and carried.

The hon. the PRESIDENT :—" Then it remains for me to fix a date for the election. Do I understand the hon. Sir Charles Todhunter to say that this is an urgent matter ? "

The hon. Sir CHARLES TODHUNTER :—" Yes, Sir. I think it is rather urgent. We have a number of supplementary estimates that we wish to place before the Committee before introduction at the next meeting of the Council."

The hon. the PRESIDENT :—" The reason why I have asked that question is to allow the House just to settle down a bit, if I may so express it, and probably members may need some little time for sending in their nominations. If I fix any hour to-day, that may not be quite adequate for them. They may like to meet one another and come to some conclusion. I know the decision is with me, but still I should like to hear if any hon. Members wish to offer any remarks by way of advice to me."

Mr. S. SATYAMURTI :—" On behalf of the new members, Sir, who are perfectly new to this House, may I suggest that some time may be allowed to lapse so that we may have an opportunity of knowing one another and elect members who can best represent us in the Finance Committee ? "

Mr. C. RAMALINGA REDDI :—" We can take it up at the meeting in December, Sir, if the hon. the Finance Member does not consider that we are prolonging the matter too much."

The hon. Sir CHARLES TODHUNTER :—" So far as I am concerned, Sir, I leave myself entirely in the hands of the House. The result of postponing the election will be, I am afraid, that we shall have to proceed with a certain amount of financial business without the advice of the Committee. I was hoping that a meeting of the Committee might be held to-morrow. The agenda is ready for issue as soon as the Committee is elected."

Mr. M. RATNASWAMI :—" May I point out, Sir, that yesterday's debate
11-30 a.m. has given us numerous opportunities for knowing each other ?
(Laughter). So I do not see any reason why we should postpone this election of the Finance Committee."

Mr. J. A. SALDANHA :—" I think, Sir, that our knowledge of each other is very limited. We have only discussed a motion of want of confidence yesterday, and as to other matters we know very little of one another. I think some time may elapse before we proceed with the election."

The RAJA OF RAMNAD :—" I am afraid that there will be no opportunity for us to meet each other once we disperse now to find out of what temperament each person is made. Therefore, I should respectfully suggest that we may proceed with the election of the members this afternoon. Following the usual practice in previous years, the nominations may be received in the afternoon after the members have discussed the matter during the lunch hour."

Rao Bahadur C. GOPALA MENON :—" Mr. President, I think the members have known each other long before they came here as members of this Council. As the Finance Committee is an important Committee for the guidance of financial matters, I consider that this question must be settled immediately without any postponement."

29th November 1923]

Mr. B. MUNISWAMI NAYUDU :—" I am also in favour of this being taken up some other day for this reason that many of us are not prepared to sit here this afternoon, so that if the election takes place to-day, some of us may not be in Madras for voting. I think that this may be postponed."

Diwan Bahadur M. KRISHNAN NAYAR :—" I only want to say this : the budget has to be discussed in this Council early in March, perhaps in the first week of March, so that the budget has to be made ready by the end of February. I think there will be usually a large volume of financial business to be looked into by this Finance Committee, and it is, therefore, necessary and desirable to appoint the Finance Committee as early as possible. Taking all things into consideration, the better course seems to me to appoint this day for the voting of members of the Finance Committee. Otherwise, I am afraid that we shall not be able to assist the hon. the Finance Member in this work of the budget and also in the work of the Council. Therefore, we must proceed to appoint the members of the Finance Committee forthwith without delay."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" In view of the statement made by the hon. the Finance Member that in case the Finance Committee is not appointed now, he will have to proceed with his business without the aid of the Committee, I think, Sir, it is absolutely necessary to proceed with this election at once. It is far better that Members elected by this House should have an opportunity of examining those financial proposals before the Council deals with them, than leaving it to the hon. the Finance Member to work out the proposals without the aid of the Committee. So it is absolutely necessary to elect the Committee immediately."

The hon. the PRESIDENT :—" In that case, I hereby appoint 3 p.m. to-day as the latest hour for sending in nominations. We may proceed with the election at 5 or 5-30 p.m. Whatever consultation may be necessary may be done by the Members in the meantime."

IV

ELECTION OF MEMBERS TO THE PUBLIC ACCOUNTS COMMITTEE.

The hon. Sir CHARLES TODHUNTER :—" Mr. President, I beg to make the following Motion :—

' That, with a view to the constitution, in pursuance of Rule 33 of the Madras Legislative Council Rules, of a Committee on Public Accounts for the year 1923-24, this Council do proceed, on a date to be fixed by the hon. the President, to elect seven Members to be Members of the said Committee.'

" On the 27th March 1923, in moving for the continuance of the old Finance and Retrenchment Committees, I said :

' I may say, in conclusion, that I do not propose to make a similar motion in connexion with the Public Accounts Committee at present, because the statutory rule relating to the same requires it to be appointed after the opening of the financial year, and the Audit and Appropriation Reports which are required to be laid before it are not expected to be ready till about the end of the year 1923. In these circumstances, I think the best course will be to postpone the appointment of this committee to a date after the general election.'

" Now that the Council has been formed, I beg to make the Motion for the election of the Members of the Public Accounts Committee. There is, however, no urgency about the appointment of this Committee."

[29th November 1923]

The hon. Rao Bahadur A. P. PATRO :—" I second the Motion."

The Motion was put and carried

The hon. the PRESIDENT :—" As the hon. the Finance Member says that there is not so much urgency about the appointment of this Committee as for the Finance Committee, I shall fix a date for sending in nominations when the Council next meets.

V

ELECTION OF MEMBERS TO THE HOUSE COMMITTEE.

The hon. Sir CHARLES TODHUNTER :—" Mr. President, with reference to Standing Order No. 80, which requires that at the commencement of each session a House Committee should be appointed to consider and advise upon all matters connected with the comfort and convenience of Members of the Council, I beg to move :—

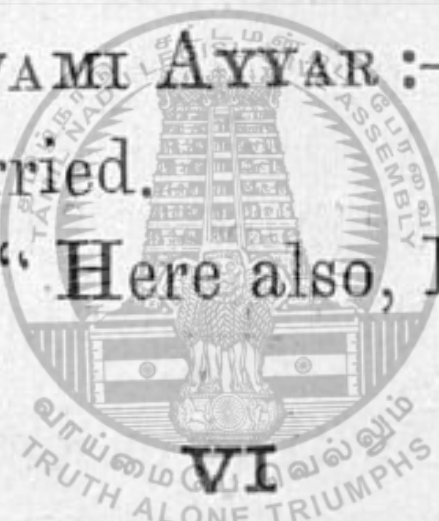
'That, with a view to appoint a House Committee, in pursuance of Standing Order No. 80, this Council do proceed to elect six Members to be Members of the said Committee, according to the principle of proportionate representation by means of a single transferable vote.'

and to ask you to fix an hour before which nominations should be sent. There is no urgency about this Committee also.

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I second it."

The Motion was put and carried.

The hon. the PRESIDENT :—" Here also, I shall fix a date and an hour when we next meet."

VI
ELECTION OF MEMBERS TO THE BOARD OF INDUSTRIES.

The hon. Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Mr. President, I beg to move :—

'That, in accordance with section 3 (1) (b) of the Madras State Aid to Industries Act (Act V of 1923) and rule 3 of the rules framed under the said Act, this Council do proceed, on a date to be fixed by the hon. the President, to elect two persons to be the Council's representatives on the Board of Industries to be constituted under the Act.'

"The Act provides for the constitution of a Board of Industries. One of its duties will be the disposal of the several applications which are being received from time to time in connexion with the disbursement of the State loans for which a sum of Rs. 8 lakhs has been placed at my disposal. That was done only recently, and so it was possible to bring up the subject only just now, and I request the hon. the President to fix an early date for proceeding with this matter."

The hon. Rao Bahadur A. P. PATRO :—" I second it."

The Motion was put and carried.

The hon. the PRESIDENT :—" Does the hon. the Minister wish me to do this immediately?"

The hon. Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Almost immediately; for, we have only a few months for the disposal of the several applications which are for more than 20 lakhs of rupees, whereas we

29th November 1923] [Mr. T. N. Sivagnanam Pillai]

have only Rs. 8 lakhs to be disbursed. The Board should, therefore, set to work almost immediately to dispose of this matter. If the date is very early next month, it will be quite enough."

The hon. the PRESIDENT:—"I shall arrange for this early in December when we meet again."

VII

DRAFT RULES REGARDING THE ALTERATION OF SCHEDULE UNDER SECTION 201 OF THE MADRAS LOCAL BOARDS ACT.

The hon. the RAJA OF PANAGAL:—"Mr. President, I beg to move:—

'That the following draft of the rule proposed to be made by the Local Government under section 201 of the Madras Local Boards Act, 1920, altering Schedule VI of the Act be approved.'

Draft Rule.

In exercise of the powers conferred on them by sub-section (1) of section 201 of the Madras Local Boards Act, 1920, the Local Government propose to make the following rule, altering Schedule VI of the said Act:—

"In the list of dangerous diseases specified in Schedule VI the following Amendment shall be made, viz., between the items 'Glanders' and 'Leprosy', the item 'Influenza' and between the items 'Plague' and 'Smallpox' the item 'Relapsing fever' shall be inserted."

"Sir, the amendments are merely formal. These diseases, influenza and relapsing fever, have been declared to be dangerous."

The hon. Rao Bahadur A. P. PATBO:—"I second the Motion."

Rao Bahadur C. NATESA MUDALIYAR:—"Sir, I propose an Amendment to this draft rule, and that is, to *delete* the words,

between the items 'glanders' and 'leprosy' the item 'influenza' and.

Sir, influenza (simple) is not a dangerous disease, because it has become so common now all over the Presidency, especially in Madras, that almost every one of us has suffered from it, and I have no doubt that many Members here are even now suffering from influenza (laughter). A cold and cough is enough to constitute influenza. But there is danger only when influenza develops into pneumonia. In England, Sir, it is only influenzal pneumonia that is notified and not mere influenza. If the hon. the Minister for Local Self-Government would change it into pneumonia (acute influenzal), I have no objection. But to say that influenza is to be notified would mean that almost the whole population of the city of Madras should come under the notification. You would only be harassing the people if influenza is to become a notifiable disease. So only pneumonia caused by influenza should be notified."

The hon. the PRESIDENT:—"So, the hon. Member's Amendment is to delete the word 'influenza' and to insert the word 'pneumonia'. Is that so?"

Rao Bahadur C. NATESA MUDALIYAR:—"To substitute for the word 'influenza' the words 'pneumonia (acute influenzal)'. That is the disease notified in England."

[29th November 1923]

Rao Sahib U. RAMA RAO :—“ I beg to second that amendment, Sir. It is always very difficult to find out the difference between ordinary cold and influenza, unless and until influenza develops into pneumonia. Even the ablest physicians are unable to diagnose and find out whether a case on hand is an ordinary case of cold or influenza, and it is much more difficult for ordinary physicians to diagnose the disease. So, mere influenza ought not to be allowed to go into the rule.”

The hon. the PRESIDENT :—“ The amendment before the House is :

for the word ‘Influenza’ in the draft rule substitute the words ‘Pneumonia (acute influenzal)’.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ May I know from the hon. the Minister for Local Self-Government whether this alteration in the list of dangerous diseases has been incorporated into either the City Municipal Act or the District Municipalities Act? We find that the alteration is now proposed to be made only in the Madras Local Boards Act.”

Mr. P. L. MOORE :—“ The alteration has been incorporated in the District Municipalities Act. The Government have passed orders making the alteration in that Act as they have the power to do so. But, for the Local Boards Act, the Government not having any such power, this Council has to make the alteration.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, though it is somewhat a matter of drafting, I think there is a puzzle with regard to the amendment proposed. The list of diseases is given in Schedule VI of the Local Boards Act thus: anthrax, chickenpox, and so on. Now we are asked to add pneumonia (acute influenzal). In the construction of a statute, brackets do not convey any particular significance. Therefore, are the terms of the amendment to be construed as referring to pneumonia as equivalent to acute influenza, or acute influenza as equivalent to pneumonia? ”

Rao Bahadur C. NATESA MUDALIYAR :—“ Then, Sir, let me put it as ‘Influenzal Pneumonia’. Influenza by itself is not a dangerous disease, for people recover from it in three days. It is dangerous only when it develops into pneumonia. Influenza has become so very common that almost every one suffers from it or will suffer from it.”

The hon. the PRESIDENT :—“ The hon. Member would probably like to have the words ‘Influenzal Pneumonia’.”

Rao Bahadur C. NATESA MUDALIYAR :—“ Among the notifiable diseases in England, pneumonia (acute influenzal) is one. But here, if brackets are not wanted, or are objectionable, I would propose ‘Influenzal Pneumonia’.”

The hon. the PRESIDENT :—“ If brackets are allowed in England, why should they not be allowed here? What has the hon. the Law Member to say? ”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, supposing
11-45 a.m. we have brackets, then the question is whether a person who is suffering from influenza is suffering from pneumonia also, or a person suffering from pneumonia is also suffering from acute influenza. I mean that the brackets have practically no meaning. I have not examined the English Act; but I am prepared to be advised by persons versed enough in Medicine, like our hon. Friend Dr. Natesan.”

29th November 1923]

Rao Sahib U. RAMA RAO:—"Pneumonia means inflammation of the lungs. Inflammation may be brought about by influenzal germs, or by pneumonial germs, or by tuberculosis germs. In the case of pneumonia (acute influenza), inflammation is brought about by influenzal germs."

Mr. M. RATNASWAMI:—"I suggest pneumoniæ influenza to be the term that may be put in." (Laughter.)

Mr. P. L. MOORE:—"I am afraid the Government cannot do anything without consulting their experts on a question like this. I very well realize that there is a great deal of medical knowledge in this House; but we could not make this alteration without consulting the Surgeon-General. With regard to the disease, it is said that influenza, except in its acute stage, is not dangerous. I think such a statement can be applied to any disease. All that I know is that the disease has taken away the lives of six million people in the year 1918-19. I do not think, Sir, we are in a position to accept any amendment without consulting our medical experts."

Rao Bahadur C. V. S. NARASIMHA RAJU:—"The question was put by my hon. Friend, Mr. Krishna Rao, whether this was extended to the District Municipalities Act. I believe Mr. Moore answered him that a notification was issued extending it to the municipalities. I find that in the Madras City Municipal Act under section 3, there is a definition of the dangerous diseases. Under section 329 powers are given to extend it to the Madras City. In the case of district municipalities section 287 says 'Dangerous disease' means a disease specified in Schedule VI; and I do not remember if the District Municipalities Act has been amended. If so, I would like to know when. In this case no power is given to the executive to notify any disease as dangerous disease under the District Municipalities Act. Now the question is, without applying this to the district municipalities, is it reasonable that these provisions should be extended to the rural areas where medical help is difficult to obtain and, therefore, correct diagnosis is impossible? I want to know if I can oppose the motion itself in view of the fact that my hon. Friend, Dr. Natesan, has moved his amendment."

The hon. the PRESIDENT:—"The hon. Member can certainly do that."

The hon. the RAJA OF PANAGAL:—"Sir, I have no objection to adopt the wording adopted in the English Act."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"I only want to say one word, Sir. With the courtesy of my hon. Friend, Dr. Natesan, I have the English Act here before me. There it is clear that two forms of pneumonia are notified. They are (1) pneumonia primary and (2) pneumonia acute influenza. It will be remembered that with regard to these notified types of diseases, all are enjoined not to mix with the public and so forth, and penalties are imposed for any disobedience. I only want to say that the safest course would be to adopt the English Acts if they will meet with the wishes of the hon. Members of the medical fraternity in this House."

Rao Bahadur C. NATESA MUDALIYAR:—"The hon. the Law Member wants to make even common pneumonia notifiable. Common pneumonia is caused by the slightest inflammation of the lungs, consolidation preceding it, and influenzal pneumonia is a different thing. The latter should be notified, but not common pneumonia. If common pneumonia also is sought to be included, let us have a separate day for the discussion. As Mr. Narasimha

[Mr. C. Natesa Mudaliyar]

[29th November 1923]

Raju said, what is the use of including the ordinary pneumonia and harassing people where they do not have adequate medical help and aid to diagnose the disease even, especially in villages.

Mr. A. RANGANATHA MUDALIYAR :—" Sir, we do not seem to have begun our work auspiciously to-day. For, Sir, with regard to the first item of the agenda, we have adjourned it before you came, and then, with regard to other matters also, we had to adjourn almost every one to a future date. Even in this case, Sir, we may adjourn the matter so that the Chief Minister may, in the meanwhile, consult his medical experts."

The hon. the PRESIDENT :—" The motion having been made already and an amendment having also been moved, I think the best course would be for both hon. Members, the Chief Minister and the hon. Member Dr. Natesan, to withdraw their motions. Dr. Natesan will probably withdraw his amendment."

Rao Bahadur C. NATESA MUDALIYAR :—" I shall withdraw my amendment if I have the right of moving a similar amendment if the Chief Minister comes back with the same motion."

The hon. the PRESIDENT :—" The hon. Member's right to move amendments is inherent in him." (Laughter.)

Rao Bahadur C. NATESA MUDALIYAR :—" I beg leave to withdraw my amendment."

The amendment was by leave of the House withdrawn.

The motion by the hon. the Raja of Panagal was then by leave of the House withdrawn.

The hon. the PRESIDENT :—" Now let us make the position clear. There is nothing before the House. The whole thing will be carefully examined and a fresh motion tabled by the hon. the Chief Minister."

Mr. C. RAMALINGA REDDI :—" Especially when we are dealing with dangerous diseases, Sir." (Laughter.)

VIII

MOTION FOR REAPPROPRIATION OF FUNDS FROM GRANT XVII EDUCATION—NON-EUROPEAN—TRANSFERRED TO GRANT XVI. EUROPEAN EDUCATION—RESERVED.

The hon. Mr. A. R. KNAPP :—" I beg to move the motion standing against my name—

12 noon. *That the provision of Rs. 66,480 under 'Grant XVII. Education (Non-European)—Transferred' for charges connected with the Reformatory School, Chingleput, and the Certified School for Boys at Ranipet may be reappropriated to 'Grant XVI. European Education—Reserved.'*

" This, I am glad to say, is a matter of mere formality and not as complicated as the other proposals which have been taken up this morning. At the end of April last the Accountant-General called attention to the fact that in entering the charges for the Reformatory School under the Transferred side of the budget we had made a mistake: I do not know who made the mistake, but the mistake has been made. He informed us that we should make the necessary alterations in respect of the current year's budget. All

29th November 1923] [Mr. A. R. Knapp]

that we have to do is to take away Rs. 66,480 from the Transferred budget and show it in the Reserved portion. The reason for this is that the Reformatory and Certified schools fall under the Reserved head."

The hon. Rao Bahadur A. P. PATRO :—" I second the motion."

Mr. S. SATYAMURTI :—" Sir, I tried my very best to follow the hon. the Mover. I do not know if I have caught him aright. But if the Motion is only a matter of accounts, or an audit matter, it may be alright. The Motion, as it is, simply wants that the amount now standing in the budget on the Transferred side should be taken over to the Reserved side. I should like to know how it happens. Is any amount left without being spent, or is any more money required for the European education? Unless the information is given, I am afraid I shall have to vote against the Motion."

The hon. Mr. A. R. KNAPP :—" The budget in respect of these grants is divided into two heads, i.e., 'XVI. European Education—Reserved' and 'XVII. Education—Non-European—Transferred'. These descriptions which were given to us by higher financial authority are not exactly accurate, because the Reserved part of education does not consist solely of European education any more than I think the Transferred half necessarily consists of Non-European education. The former covers European education proper as well as anything else in the Education budget which is dealt with by the Member and not by the Minister. The Member and not the Minister deals with Reformatories. All that we now do is to ask that the money which has been put by mistake under the Minister's part of the budget should be put under the Member's part of the budget. It is not going to be used for European education in the strict sense. It is going to be utilized exactly for the purpose for which it was intended by the old House. We are now told that it is in the wrong place in the budget and I am now moving to put it in the right place."

Mr. C. RAMALINGA REDDI :—" I think, in view of the explanation given, there is no need to oppose this Motion."

Mr. B. Venkitaratnam asked in Telugu whether the Education Minister agreed with the explanation given by the hon. the Home Member.

The hon. Rao Bahadur A. P. PATRO :—" The Education Minister agrees with the explanation. It is only a change of place in the account."

The hon. the Minister for Education then proceeded to explain this in Telugu, in the course of which . . .

Mr. C. V. VENKATARAMANA AYYANGAR (*interrupted and said*) :—" I rise to a point of order, Sir. The question is whether the hon. the Minister can speak in Telugu."

The RAJA OF RAMNAD (*from the Chair*) :—" He can do so as he has to explain to a Member."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Speeches in the House are governed by rules. I think a Member can speak in Telugu only if he does not know English well."

The RAJA OF RAMNAD (*from the Chair*) :—" If he has to express himself, he should do it in English. But here he is answering a particular hon. Member who has put him a question in Telugu."

[29th November 1923]

The hon. Rao Bahadur A. P. PATRO :—“ It is not a matter of taking away money from the Transferred Education to the Reserved Education at all. As has been explained by the hon. the Home Member, it is only a change of head. Actually the Reformatories are administered by the Reserved Department. It is only a question of adjustment of accounts.”

The RAJA OF RAMNAD (*from the Chair*) :—“ So far as I understand, there is no rule prohibiting Members of Government from speaking in vernacular with a view to convince Members who know only vernacular.”

Diwan Bahadur M. KRISHNAN NAYAR :—“ Rule 14 of the Legislative Council Rules says :

‘ The business of the Council shall be transacted in English, but any Member who is not fluent in English may address the Council in any recognized vernacular of the Province, provided that the President may call on any Member to speak in any language in which he is known to be proficient.’

“ Under the correct construction of this rule, the hon. Mr. Patro, who is fluent in English, cannot speak in Telugu.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ I only say that the rules are defective and under the rules he cannot speak in Telugu.”

The RAJA OF RAMNAD (*from the Chair*) :—“ I think the hon. Member is at liberty to move for the amendment of the rules if he needs it. But I do not think there is any prohibitory rule that a Member of Government or others should not talk in any other language.”

Diwan Bahadur M. KRISHNAN NAYAR :—“ The rule says :

‘ The business shall be transacted in English.’”

Mr. S. SATYAMURTI :—“ I rise to a point of order. We have already heard the Minister in English and Telugu. The necessity of going into the interpretation of the rules does not arise.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ As this is a matter of some importance, and as this question may be raised more than once in the course of various debates, I should like to have a definite ruling on this matter. Under rule 14 of the Legislative Council Rules as expounded by the hon. Member from the West Coast, the business of the Council should be transacted in English. But any Member who is not fluent in English may address the Council in any recognized vernacular of the province. Therefore, two things follow, viz., the business has to be transacted in English as the rule stands. I do not say that the rules may not be altered. But it is a condition precedent to a person speaking in any other language than English that he is not fluent in English. There is a proviso to that rule which says :

‘ Provided that the President may call on any Member to speak in any language in which he is known to be proficient.’

“ I take it that the meaning of this second portion of the rule is that, supposing a person is proficient in Tamil, Telugu or Kanarese, the President may make a choice as to in which language he should speak. I think that is the scope of the rule. As the rule has to be interpreted and often invoked, I want a ruling from the Chair on this point.”

Mr. S. SATYAMURTI :—“ The hon. the Law Member excluded English when he interpreted the proviso. As I read the rule, it means this : Normally

29th November 1923]

[Mr. S. Satyamurti]

the proceedings shall be in English. But any Member who is not fluent in English may address the Council in any other language as Tamil, Telugu, Kanarese and Malayalam (cries of 'Urdu' from the Muhammadan block). I thought Urdu was a classical language. But I shall include it if you want. My submission is that the proviso which runs thus :

' Provided that the President may call on any Member to speak in any language in which he is known to be proficient '

also includes English. A particular hon. Member may be proficient in English and Tamil, or English and Telugu, or English, Tamil and Telugu. I suggest to this House that to meet the contingency where one Member has got to be answered by another Member and if the answerer knows the language of the questioner it is perfectly competent to the Chair to call upon the Member to speak in the vernacular, provided the Chair is satisfied that the questioner is not proficient in English. I do not think that the interpretation put upon the words 'in any language' by the hon. the Law Member is borne out by the rules. I therefore suggest not only as a matter of interpretation, but as a matter of intent, that it certainly means that the Member of the House who knows both English and Tamil or some other language may be allowed to speak in any language provided the President allows him to do so."

The RAJA OF RAMNAD (*from the Chair*):—"I think the matter ought to be further considered and a ruling given. For our present purpose I think the question does not arise at all inasmuch as the hon. Mr. Patro did not address the House, but addressed the individual member. He spoke to the other hon. Member in Telugu as he could not understand English. The President can permit any member to speak in any language in which he is known to be proficient. I take it that the hon. Mr. Patro is proficient in Telugu also. Therefore, I think, without committing myself, it will be advantageous to proceed with the work and take the sense of the House in regard to the motion of the hon. the Home Member."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"I bow to your tentative ruling."

The motion was put and carried and the appropriation was allowed.

IX

A BILL FURTHER TO AMEND THE COURT FEES ACT, 1870, IN ITS APPLICATION TO THE PRESIDENCY OF MADRAS.

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Sir, I desire to introduce this Bill further to amend the Court Fees Act in its application to the Presidency of Madras, and I move that it be read in Council. In so doing, I think it would be necessary to make one or two remarks of a preliminary character. Hon. Members of this House will be aware that this Court Fees Act has been recently amended. I think two opinions have been held as to the effect of that amendment. While not desiring to commit either Government collectively, or myself or the hon. the Finance Member individually to any particular course of action, I think it may be found necessary very shortly to go into the whole question of the rate of fees to be levied under the Court Fees Act. It has been found that the objects which the framers of the amendment had

[Mr. C. P. Ramaswami Ayyar] [29th November 1923]

in their mind have not only been carried out in the result, and it may also be that the incidence of the court fees has turned out to be more unequal than they were originally contemplated to be. But, as I said, this is only a tentative and preliminary observation. I am trying to make it abundantly clear that any motion to be made will not preclude the Government from further action and the Government, as at present advised, in all probability will take steps to equalize the incidence and, if necessary, to amend the scale.

“ Having said so much, let me go to the facts of the matter. Hon. Members will see that there are two points which are referred to in the Statement of Objects and Reasons. The first is the Court Fees Act schedule itself. I think the old amendment was slightly unhappy and the amendment was made in great haste as hon. Members of the old House will readily recognize and what happened then was that, as the amendment of the Court Fees Act stands, the mukthiarnama or vakalatnama or any paper sent by an advocate signifying that he is retained by a party will have to bear a certain fee. As the amendment now stands, it is only the paper signed by the advocate that will have to bear the fees and not that of the vakil or attorney. The question now arises as regards the Criminal Rules of Practice. As per rule 141 of the Criminal Rules of Practice, the matter stands thus. If a vakalat or memorandum of appearance has to be filed on behalf of an accused person, no court fee need be paid. As the rules at present stand, a certain scale of fees has to be paid by the advocate. If the vakil appears, no fee is leviable. In order to remove that inequality to which attention has been drawn, this particular amendment is brought forward. I move that this Bill be read in Council.”

The hon. Rao Bahadur A. P. PATRO :—“ I second it.”

Rao Bahadur O. TANIKACHALA CHETTIYAR :—“ Before the Bill is proceeded with, may I ask the hon. Member what the amount of revenue that will be derived by this amendment will be? For, I see in the Statement of Objects and Reasons that this Bill is proposed, or rather this amendment is proposed, in the interests of uniformity and in the interests of revenue. If it is a question of uniformity, I have other remedies to suggest. If it is a question of revenue, let the House know how much the revenue will be, and what the necessity for the raising of this additional revenue is.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ Sir, I think that, even from the standpoint of the hon. the Law Member, this Council will not be well advised in proceeding with this Bill.”

Rao Bahadur O. TANIKACHALA CHETTIYAR :—“ I asked for some information. I have not made my speech on this.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ I think not less than about 2½ to 3 lakhs.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ Sir, it has been pointed out by the hon. the Law Member that the results expected from the previous Amending Bill have not been realized to the extent expected and that it is necessary to further amend the Court Fees Act so as to equalize the incidence of court fees. It means that even if an amendment is passed by this House by means of this Bill, it is likely to be tentative for the time being in the absence of any definite statement as to the possibilities of further amendments to the Act. We have been told that the object of this Bill is to remove the anomaly that while an advocate who files a

12-15 p.m

29th November 1923] [Mr. A. S. Krishna Rao Pantulu]

memorandum of appearance is called upon to pay a court fee, the vakil is not required to do so. May I point out that the circumstances under which that exemption was incorporated in the Criminal Rules of Practice have to be specially taken into account before the so-called anomaly is tried to be remedied by means of this measure? There is a wide difference between the liberty given to an advocate to file a memorandum of appearance without a vakalat and the liberty given to a vakil to file a memorandum of appearance in criminal cases. On special consideration of the circumstances under which persons have to retain vakils to defend them in criminal cases in several rural areas where there are no special facilities and on other considerations, that provision was incorporated in the Act; and no satisfactory reasons have been shown as to why such a provision is to be abrogated just at present. If we have definite information as to the large additional revenue which is likely to be realized by means of this amendment, it would have been a different thing altogether. It is stated that an income of 2 lakhs of rupees or thereabouts may be realized thereby."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I wish, with your permission, Sir, to make a personal explanation which will clear up matters. On account of the previous amendment, we are losing $2\frac{1}{2}$ to 3 lakhs which we might be getting because that amendment applied only to advocates and not to vakils. Under the law as it stands at present, a memorandum of appearance filed by an advocate is subject to the duty, but if a vakil files it, it is not subject to the duty."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" If the amendment now moved by the hon. the Law Member would preserve the state of things which existed before the last amendment, nobody would object to it. But by this amendment, vakils who were filing memorandum of appearance without any duty are now called upon to pay stamp duty. That is the additional burden which is tried to be imposed by means of this Bill. If the present Bill is calculated to guard against the loss of revenue occasioned by the previous Amending Bill, I would not quarrel with that position. But the result of this Bill will be to impose an additional hardship on the unfortunate litigants in criminal cases who will find it difficult to bear the extra fee. I would, therefore, submit that so long as this Bill is not calculated to protect the loss of revenue which is supposed to have resulted by the previous Amending Bill and since it imposes additional taxation, it is my duty to oppose it. If, after a very careful consideration of the question, the hon. the Law Member finds it necessary to equalize the incidence of taxation, he can come forward with another consolidated Amending Bill. But so far as this particular Bill is concerned, it is calculated to increase the burden of persons involved in criminal cases and I have, therefore, to oppose it."

Mr. P. SIVA RAO :—" Mr. President, I rise to oppose this Bill. In the Statement of Objects and Reasons of this Bill a twofold reason is given for the proposed amendment. The first is 'in the interests of uniformity' and the second is 'in the interests of revenue'. Now, before I proceed further, I may explain to the hon. Members of this House the precise state of things before the Amending Act of 1922 was passed. As a Member of the Legislative Council at the time when the Bill was taken into consideration, I know, Sir, what effect it had, whether the revenues were augmented, or whether they suffered in consequence. Before the Bill of 1922 was passed, a memorandum of appearance filed by an advocate, including a barrister, was not

[Mr. P. Siva Rao]

[29th November 1923]

subjected to any stamp duty. For the first time it was found out just for purposes of revenue that there was no reason whatever why a vakalat filed by a legal practitioner, other than an advocate, including a barrister, should bear the court fee stamp and why the memorandum filed by an advocate should be exempt from such a duty. To remove that anomaly and also in the interests of our revenue, it was proposed and carried that not merely the vakalats filed by the vakils but also the memoranda of appearance filed by advocates should bear the necessary court fee. The certain effect of that proposal was to augment the revenue under the head of court fees and not to reduce it. I say this in order to clear the misconception on the part of the hon. the Law Member. I understand him to say that by reason of this amendment, we have been losing a certain portion of the revenue which we had enjoyed before the amendment was made."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I am afraid my hon. Friend did not hear me aright. I was saying that by reason of the previous amendment having been passed in that form, we were losing some revenue."

Mr. P. SIVA RAO :—" Coming again to the state of things that prevailed before the Amending Bill of 1922 was passed, a vakalat filed by a legal practitioner, other than an advocate, ought to bear a stamp duty of half a rupee, but the memoranda of appearance filed by a legal practitioner on behalf of the accused person need not be affixed with a court fee of 8 annas. That was a special rule framed in the interests of the accused person and not in the interests of the legal practitioners; because, under the Criminal Procedure Code, there is a distinct provision that every accused person should, as a matter of right, be defended by a pleader, and it was thought desirable that by no legislation should such a right be fettered. It was acting on that principle that memoranda of appearance filed on behalf of accused were not subjected to the payment of court fee. There is also a provision in the case of appeals filed by men in jail. If a man in jail files a criminal appeal, the appeal memorandum need not be stamped. All these are based on the excellent principle that the accused should be allowed to have full latitude in choosing his own legal adviser untrammelled by any taxation. Such a beneficent provision in the case of accused persons is now sought to be taken away for the first time by this Amending Bill. In the interests of accused persons, I strongly protest against the passing of this measure. If any inequality is said to exist and it is to be removed, I propose that even the memoranda of appearance filed by an advocate on behalf of the accused should be exempted from taxation. By introducing such a change, we shall be restoring uniformity. I may say for the information of hon. Members of the House that the prevailing practice is that when a legal practitioner files a vakalat, say for the conduct of a prosecution in a criminal case, he ought to pay the necessary court fee. The exemption exists only in the case of memoranda of appearance filed on behalf of the accused. There is more than one reason why such an exemption from payment of court fee should be retained. Hence I oppose this Bill."

Mr. G. RAMESWARA RAO :—" Sir, going to the old state of affairs, the Imperial Act levied court fees only upon a vakalat and a mukthiarnama. Then came the Madras Amendment Bill which taxed also the memoranda filed by advocates. Comparing the old state of things with the present, we have made a decided advance in the matter of revenue. What is now sought to be

29th November 1923] [Mr. G. Rameswara Rao]

done is to tax us further by saying that the memoranda of appearance which were not taxed hitherto should be made liable to taxation; and it is surreptitiously put forward that they want to remedy an anomaly."

The hon. Mr. C. P. RAMASWAMI AYYAR :—"There is nothing surreptitious about it."

Mr. G. RAMESWARA RAO :—"I beg his pardon. I mean, it is not the very best way to put the case for the Government to say that there was an omission then. It cannot be an omission because everybody connected with the last Bill must have known what the result of the amendment would be at that time. The position is clear enough. If, as a matter of fact, the revenue was raised by taxing the memoranda of appearance filed by advocates, there is absolutely no justification to tax the memoranda of appearance filed by vakils. If at all there is any anomaly in this, I submit that there are lots of anomalies in the field of law which need amendment. For instance, a barrister by virtue of his position, as a relic of ancient history, is allowed to file a memorandum of appearance instead of a vakalat. But when a vakil appears in a court of law he has to file a vakalat signed by the client and attested by a magistrate, as if the vakil's word cannot be taken for truth. This anomaly is perpetuated every day in our country. If such anomalies are perpetuated with eyes wide open, I submit that the fact that this particular anomaly is sought to be remedied now only for purposes of uniformity is an argument which I for my part fail to appreciate. If it is put forward on the ground of taxation, I submit it is not a very good augury for the beginning of the first session of the Legislative Council.

12-30 p.m. "People are complaining that they are already overtaxed and that the Council has not done anything good for the country. Now, if we add to their burden by giving our consent to the passing of this amendment, we will be subjecting ourselves to their blame.

"Again, Sir, if this amendment is brought forward on the ground of uniformity and as a remedy for avoiding certain anomalies, I submit that remedies should also be found for placing all the legal practitioners on a par. So far as those differences are being perpetuated, the theory of uniformity does not also hold water. On these grounds I oppose the amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—"I also oppose this Amending Bill. I do not know whether the advocates made any complaint at all."

The hon. Mr. C. P. RAMASWAMI AYYAR :—"Yes."

Rai Bahadur T. M. NARASIMHACHARLU :—"The hon. the Law Member says that the Advocates made a complaint when they were asked to pay court fees in criminal cases. The best remedy is to exempt advocates also from paying court fees in criminal cases. Instead of doing that, the Government have taken advantage of that complaint to increase their revenue. I submit that is not the proper way of doing things. As Mr. Siva Rao pointed out, it is the right of every accused person in a criminal case to be defended by a pleader. That is a statutory provision made in the Criminal Procedure Code. When that has been conceded by the Act, I cannot see how Government can insist on the accused person paying a certain amount of court fees when he wishes to appear by a pleader. This is a vital objection to the course adopted by the hon. the Law Member.

[Mr. T. M. Narasimhacharlu] [29th November 1923]

"Secondly, in considering the prestige and dignity of the advocate, we lose sight of the poor tax-payer. In the last amended Court Fees Act we have raised the court fees, so far as vakalatnama is concerned, by 100 per cent especially in the mufassal. Where it was only $\frac{1}{2}$ a rupee previously, it is now Re. 1. Who suffers by this enhancement? It is not the pleader, but it is the litigant public who unfortunately have to go to courts. I, therefore, submit that, in trying to remove an anomaly, we are proposing an additional taxation on the people; and what will be the result? The result will be, as the hon. the Law Member has just now told us, a further income of $2\frac{1}{2}$ or 3 lakhs of rupees to the Government. I submit that, if the advocates complained, the only way of removing the complaint is to exempt them from payment of court fees in filing any memorandum of appearance and not to extend the same cause of complaint to other legal practitioners who are practising in the City as well as in the mufassal. I submit, Sir, that on no considerations whatsoever is this kind of enhancement commendable.

"Again, the hon. the Law Member has just now told us that Government is contemplating to revise the Court Fees Act in the near future. If that is so, what is the special hurry. The hon. Member began by saying that the last legislation was somewhat hastily passed. May I point out, Sir, that now also he wants to follow the same example by not only trying to introduce this Bill, but also by seeing that no Select Committee is appointed and that the Bill is passed at once? I, therefore, submit that the procedure adopted in trying to pass this Bill at once is equally hasty as it was in the case of the previous Amending Bill. I may add, Sir, that if this Amending Bill is passed, it will prove to be very burdensome on the poor tax-payer. For these reasons, I oppose the Amending Bill."

Rao Bahadur C. V. S. NARASIMHARAJU :—"Mr. President, hon. Members who were in the old Council would remember that it was not an amendment that was introduced from the Treasury Bench in the original Bill. We, the old members, do well remember the controversy between the vakil and advocate members of this Council. When the Advocate members did not support the vakil element for the reduction of the enrolment fees, the vakil members, perhaps including my humble self, took cudgels against the advocate members and wanted to penalize them. A perusal of the proceedings will clear this matter, and show that Government never wanted to tax this particular item, namely, the memorandum filed by an advocate in any court. Mr. Arumainatha Pillai introduced an amendment at that time, rather with an inconvenient wording. Truly it was hastily accepted by the House. Then the hon. the Finance Member referred to his own experience in the High Court, as Registrar or otherwise, and also to the fact as to how advocates put in their memoranda of appearance and avoided payment of vakalat fees and how he tried to devise one or two methods of compelling the payment of court fees and how he failed in his methods. The whole discussion was then concentrated on the payment of court fees by advocates in civil courts. I do not think for one moment that any advocate of the legal profession should be taxed for putting in an appearance in a criminal case. It is a matter of experience that, when a vakil appears for a complainant in a criminal case, he files a vakalat and the court fees are paid. The hon. the Law Member says not necessarily. All right. But the practice was that, whoever appeared for a case in a criminal court, be he an advocate or a vakil, no court fees were paid on account of appearance for an accused. It was never the intention

29th November 1923] [Mr. C. V. S. Narasimha Raju]

of the Government to revise that method. Even when they introduced the Court Fees Amendment Act, it was simply because the amendment of Mr. Arumainatha Pillai was carried in this House that the advocates were made to pay court fees on memoranda of appearance."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I think I might shorten the discussion. I realize that there is much feeling in this House that the poor accused ought not to be mulcted. I am perfectly prepared to exempt them from payment of court fees after this Bill goes into Select Committee. I am only suggesting this as a way out of the discussion."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Mr. President, the question before the House is whether the court fees shall be payable only in civil courts or, in the case of complainants, in criminal courts also. As far as the question of payment of court fees by a complainant is concerned, it is only a question which can be examined in the Select Committee, and it will be brought before this House after examination by that Committee. The hon. the Law Member is willing to exempt the case of an accused from payment of court fees."

Sir K. VENKATAREDDI NAYUDU :—" As the hon. the Law Member said, when the last amendment was accepted, it was understood that court fees had to be charged on memoranda filed by advocates. We were thinking of only civil suits. Thousands and thousands of batches of civil suits and appeals are being filed in civil courts and the common device for litigants in the mufassal was, instead of paying half a rupee for every single suit, which meant Rs. 500 for 1,000 suits, to pay Rs. 500 for 1,000 or 2,000 such suits and engage an advocate even if one was not available in the locality. It was to put an end to that device that the previous amendment was introduced.

" I have been under the impression that in a criminal case when a memorandum of appearance was put in, be he an advocate or a vakil or any other legal practitioner, no stamp fee was required. Now, Sir, I should like to refer to one other point, and that is, occasions may arise when appearances before a magistrate may be so very imminent. The prisoner may be in jail or may be under peculiar circumstances when, if he is asked to go and fetch stamp, it may take sometime and during that period the man has to be in custody. There are occasions which require immediate appearance before a magistrate and the absence of stamp might involve great difficulties. In order to avoid those difficulties, this privilege, i.e., to have his vakil or legal practitioner appear for him without stamp, was accorded to the accused. It was, I think, intended that it must be given as a concession and privilege to a man peculiarly situated under difficult circumstances when immediate remedy should be made available. The question is whether such a privilege to an accused person placed in embarrassing circumstances applies only to persons in custody, or whether it would be right for the sake of 2½ lakhs or 3 lakhs of rupees that such a privilege and right should be taken away by an amendment introduced in this Council."

Dr. P. SUBBARAYAN :—" Mr. President, when the amendment levying fees on advocate's memorandum was proposed last time, I rose to oppose it. Now, again, I want to oppose this amendment on the ground that it would be taxing the poor man. Very likely, he cannot afford to employ costly advocates. There are small pleaders and private vakils who might be engaged in criminal

[Dr. P. Subbarayan]

[29th November 1923]

proceedings. They would appear for a trifle and, if this amendment is passed, it would be adding additional burden on the poor man. On this ground, I oppose this motion."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Sir, as will be apparent from the agenda, it was proposed at first that we should
12-45 p.m. proceed with the Bill without referring it to the Select Committee. I fully realize the volume of the weight of opposition in regard to this matter and I am prepared, out of deference to it, to have the matter examined by the Select Committee. As I said, I am indebted to many hon. Members who drew my attention to the history of this enactment. It really arose out of what may be called professional and internecine quarrels. Barristers and advocate members of this hon. House would not support a motion for the reduction of the enrolment fee of the vakil, and the vakil members of the House got up and insisted that the advocates should pay a certain duty on these memoranda. That was the psychological history of this enactment."

Dr. P. SUBBARAYAN:—"May I correct the hon. the Law Member, Sir? The amendment about the filing of memorandum of appearance came first and then came the raising of the fees for the enrolment of vakils."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"In any case, I think considerations somewhat foreign to what may be called intrinsic merits—I say that with all due deference and with the respect I always pay to the decision of this House,—considerations which were not weighty, were brought into discussion. Now, what is suggested is this: it would be a wrong thing to compel the poor accused who sometimes would not be in a position to pay for the stamp duty; it would be wrong to subject him to the payment of that duty. Now, that might be got rid of in the Select Committee and the operation of this enactment may be confined to complainants and other private parties who are concerned in criminal cases and also opportunity may be taken to raise up or level down the stamp duty as the Committee deem fit. It is with that object that I gave the assurance to refer the Bill to a Select Committee. I hope this assurance will satisfy hon. Members."

Mr. S. SATYAMURTI:—"I quite appreciate the hon. the Law Member's response to the eloquent appeal of the Leader of the House yesterday for a spirit of compromise. I quite realize that he has noted the feeling of this House that we do not propose to become parties to taxing justice, taxing the poor man when he is dragged before a court of law. But I am afraid I cannot congratulate the hon. the Law Member in having dragged in a previous discussion and tried to show that barristers and vakils showed their professional quarrels. I am quite sure I can speak for all members of this House whether barristers or vakils or non-barristers or non-vakils. . . ."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"I referred to the last House only and I did not say that there was internecine feud among the various Members of the legal profession in this House."

Mr. S. SATYAMURTI:—"I am glad of that assurance. We are all agreed that the poor man ought not to be taxed. I quite appreciate the hon. the Law Member's change of mind when he said that he was prepared to refer this Bill to the Select Committee. I take it that before a Bill goes to

29th November 1923] [Mr. S. Satyamurti]

a Select Committee, there ought to be something for the Committee to consider. Let the hon. the Law Member give us this assurance that persons appearing for cases in criminal courts will be exempted from paying this fee on the memoranda of appearance. Even persons appearing for the complainant in the mufassal courts, very often, have to pay this fee on their vakalats."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"They need not pay under the rules."

Mr. S. SATYAMURTI:—"That is a matter entirely for the High Court, and if the High Court feels that the existing rules and practices in this respect ought to be amended, they should insist upon changing the rules."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Mr. President, the High Court may propose to change the rules making stamp duty compulsory in vakalats. If I asked the High Court to do that, I need not have come before the House and it is because I thought that the sentiments of this House ought to be respected that I have come before it with this Bill."

Mr. S. SATYAMURTI:—"Since the hon. the Law Member has come before the House to take its sense, I would humbly and respectfully submit that the sense of the House is against this taxation. I was saying that if the High Court wanted, they might do it. My point is this: There is nothing to go before the Select Committee and I do not think that this House would agree to the proposal for referring this Bill to a Select Committee. The question is whether the House is agreeable to the principle of making money out of justice. I cannot agree with the hon. the Law Member that even this magnificent sum of 2½ or 3 lakhs should be raised by this kind of taxation. This House ought not to be a party to this kind of making money out of justice."

"Now for the anomaly of it, I am sure there are many other anomalies in dealing out justice; and since we can all allow our legal and legislative consciences to rest quiet over those anomalies, let this anomaly also exist. If the hon. the Law Member is anxious to remove this anomaly on behalf of the vakils, the advocates may also be exempted from paying for stamps in criminal cases; and, the legitimate way of removing this anomaly, if it ought to be removed, is to declare that the advocates also need not pay. The poor clients who go before the courts should not be taxed further. Further, as my hon. Friend said, this is not the proper way of beginning the first session of this Council."

"I only want to ask one question. I am sorry the Leader of the party is not here. We are anxious to know what the lead of that party on this matter is. We were told yesterday, in another connexion, that there must be a spirit of give and take. The Reserved half gave their votes freely yesterday and, is the Transferred half going to give freely the money of the poor clients to the Reserved half? That is a question which this House is bound to answer and I would leave it to my hon. Friends who are the leaders of the party in power with a glorious, magnificent majority of two. . . ."

Mr. C. RAMALINGA REDDI:—"One."

Mr. S. SATYAMURTI:—"with a glorious, magnificent majority of one, who are still sitting in office supported by that magnificent majority, to say whether they, in the rejuvenated life in which they glory, out of eternal

[29th November 1923]

The hon. Rao Bahadur A. P. PATRO :—" I second the Motion."

The Motion was put and carried

The hon. the PRESIDENT :—" As the hon. the Finance Member says that there is not so much urgency about the appointment of this Committee as for the Finance Committee, I shall fix a date for sending in nominations when the Council next meets.

V

ELECTION OF MEMBERS TO THE HOUSE COMMITTEE.

The hon. Sir CHARLES TODHUNTER :—" Mr. President, with reference to Standing Order No. 80, which requires that at the commencement of each session a House Committee should be appointed to consider and advise upon all matters connected with the comfort and convenience of Members of the Council, I beg to move :—

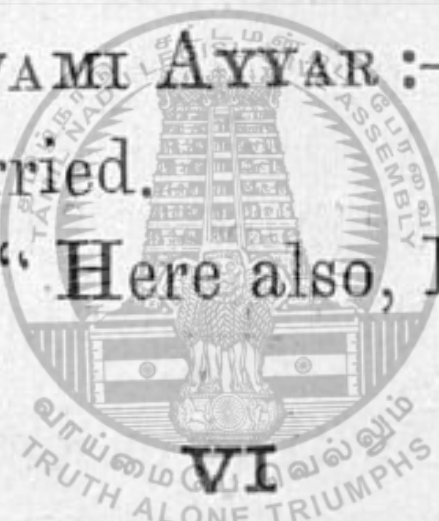
' That, with a view to appoint a House Committee, in pursuance of Standing Order No. 80, this Council do proceed to elect six Members to be Members of the said Committee, according to the principle of proportionate representation by means of a single transferable vote.'

and to ask you to fix an hour before which nominations should be sent. There is no urgency about this Committee also.

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I second it."

The Motion was put and carried.

The hon. the PRESIDENT :—" Here also, I shall fix a date and an hour when we next meet."

VI
ELECTION OF MEMBERS TO THE BOARD OF INDUSTRIES.

The hon. Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Mr. President, I beg to move :—

' That, in accordance with section 3 (1) (b) of the Madras State Aid to Industries Act (Act V of 1923) and rule 3 of the rules framed under the said Act, this Council do proceed, on a date to be fixed by the hon. the President, to elect two persons to be the Council's representatives on the Board of Industries to be constituted under the Act.'

" The Act provides for the constitution of a Board of Industries. One of its duties will be the disposal of the several applications which are being received from time to time in connexion with the disbursement of the State loans for which a sum of Rs. 8 lakhs has been placed at my disposal. That was done only recently, and so it was possible to bring up the subject only just now, and I request the hon. the President to fix an early date for proceeding with this matter."

The hon. Rao Bahadur A. P. PATRO :—" I second it."

The Motion was put and carried.

The hon. the PRESIDENT :—" Does the hon. the Minister wish me to do this immediately ?"

The hon. Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Almost immediately ; for, we have only a few months for the disposal of the several applications which are for more than 20 lakhs of rupees, whereas we

A BILL FURTHER TO AMEND THE COURT FEES ACT, 1870, IN ITS 177
APPLICATION TO THE PRESIDENCY OF MADRAS

29th November 1923] [Mr. M. Krishnan Nayar]

no satisfactory reason has been given by my hon. Friend Mr. Ramaswami Ayyar to pass this measure from the point of view of revenue.

"Sir, I do not wish to dwell upon the other aspect of the question, viz., that of the protection of the accused, because it has been already dwelt upon at considerable length. Of course, there is no need whatever to place the accused in a criminal case under a disability. From that point of view also there is no need to pass the first reading of this Bill and send it to the Select Committee. I am, therefore, inclined to vote against this measure going forward."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I just want to say one or two words. Sir, the hon. Member Mr. Krishnan Nayar said that all the Members of the former House agreed to the amendment of the Stamp Act last time."

Diwan Bahadur M. KRISHNAN NAYAR :—"A word of personal explanation, Sir. What I really meant was that the majority of Members agreed to the amendment of the Stamp Act."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I am glad of that correction. I opposed the last Amending Act and one of my reasons for opposing the amendment of the Stamp Act was that there was absolutely no necessity for that in view of the fact that the necessary sum could have been got by retrenchment or otherwise. The only argument now put forward by the hon. the Law Member for amending this Act is that this might probably give the Government a sum of 2½ lakhs or so. By means of this amendment, it is intended that all memoranda that are filed by vakils for prosecution or for defence should be stamped. If, as is now agreed to, the memoranda filed on behalf of the accused need not be stamped, there is very little revenue that can be expected. So far as my experience goes, there is a different procedure adopted as regards the appearance of vakils for the prosecution. In some cases, the law as it is gives full discretion to allow a vakalat or not, but many courts insist upon a vakalat. It is only in a few cases where a memorandum of appearance is allowed by a court on behalf of the prosecution that the stamp to be affixed is avoided. The cases coming under this description would be very limited. Even under the Court Fees Act some complaints are exempt from stamp duty. In cases of a serious nature if a complaint is given, no stamp is necessary at all. Even in ordinary cases in the case of poor people, the court is given the discretion of dispensing with the stamp for complaints.

"While the law ordinarily gives discretion as regards complaints in any criminal case, why should this additional tax be levied upon a poor man? In any case my view is either for the prosecution or for the defence the memorandum of appearance should not be taxed. I do not think that in the Select Committee an amendment that no fee at all be levied in criminal cases for memorandum of appearance can be brought forward."

The hon. Mr. C. P. RAMASWAMI AYYAR :—"I do not think that an amendment of such a nature can be brought forward in the Select Committee. That will mean the very negation of the Bill. All that I said was that the exemption of the accused from paying any fee can be achieved in the Select Committee."

[29th November 1923]

Mr. C. V. VENKATARAMANA AYYANGAR :—“ While that is the case, an Amending Bill may be brought forward some time later. We shall then consider whether its introduction is necessary or not. Either for the accused or for the complainant I am strongly of opinion that no fee should be insisted upon. Sometimes poor servants are ill-treated by rich men and they have to go and file complaints. In such cases vakils will demand no fee. If the complainants are asked to pay a fee of rupee one, it will be rather very hard. Therefore, I agree with my friends on both sides in opposing this measure.”

Mr. P. ANJANEYULU :—“ Sir, I come from a mufassal and those living in the mufassal places are mostly ryots. They have been under the impression that justice can be secured cheaply. I take it that this is so, because in some criminal cases where a private party puts a complaint, it is the Crown that pays for the stamps, etc. I take it that the principle is that King's justice is to be dispensed with free, cheap and to all, rich and poor alike. It is on this principle also, I suppose, even the payment of court fees are exempted in certain cases. I learn from the hon. the Law Member that it will be a source of revenue. If it is a source of revenue I take it that revenue ought to be secured, if I may say so with due respect, not by selling justice.”

Rao Bahadur O. TANIKACHALA CHETTIYAR :—“ Sir, I oppose this motion for the introduction of this Bill to the Select Committee. My Friend, Mr. Satyamurti, who is as usual on the war path, having made certain of the general sense that the House, whether on this side, or on the opposite side or on any side, is against this measure, threw a challenge to the Ministerialists to take up an attitude of opposition to him merely for the purpose of opposing him and thereby enable him to tell the country that a measure of taxation, which is opposed by one party, is being supported by the other party. I, for one, am not going to allow him the pleasure of saying outside this House that we are reactionaries (Cries of hear, hear). I agree that this measure is not justifiable. An error has been committed in the past and it is freely admitted that it has been committed to satisfy a spirit of revenge among the several kinds of legal practitioners against each other rather than in the spirit of protecting the interests of the Indian tax-payer or litigants. I would ordinarily consent to a reference being made to the select committee to bring about changes regarding matters which do not appear reasonable on the face of the Bill, but when this Bill consists of only two words—‘ legal practitioner ’ and ‘ advocate ’,—where is the necessity for referring it to a select committee? Generally, Bills are referred to select committees when there are a number of sections and provisions, some of which are considered to be necessary and some others objectionable and might be modified. Is it for the purpose of merely modifying the language of the section which consists of two words? ”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, Sir, it is not for the purpose of modifying the words but for enabling the sense of the House to be manifested on the proposal that I suggested that the Bill be referred to a select committee.”

Rao Bahadur O. TANIKACHALA CHETTIYAR :—“ Sir, if that is the object, I think that that object must be expressed by the House itself instead of by a few Members, because no amendment has been tabled. Select committees are but delegated authorities to express the sense of the House.

29th November 1923] [Mr. O. Tanikachala Chettiyar]

When the sense of the House is for rejecting a measure of this kind, I think it would not be right to refer it to a few gentlemen constituting a select committee and allow it to be modified in a manner which will be beyond the recognition of its parent. Therefore, if we pass this measure or anything akin to it, we will be nullifying the provision of section 340 of the Criminal Procedure Code, which is a measure passed by the Government of India. This section says that 'every person accused before any criminal court may of right be defended by a pleader.' These persons will be affected by this amendment. I doubt very much whether this House can take away by a measure introduced here what has been granted by legislation passed by the Government of India."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"The Government of India's consent has been obtained, I believe."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"However much it may not be illegal, it is open to question. I do not propose to go into the question of circumventing the right given by a measure passed by the Indian Legislature by a provision passed by the Provincial Legislature. Sir, I think it is not right that people who are obliged to defend themselves against charges brought against them and not by their seeking—in most cases it may be against their will,—should be asked to pay a fine of Re. 1 to the State on a vakalat or memorandum of appearance. If it is a luxury, something out of the way, it is but right that they must be made to pay for a memorandum of appearance, which is only a paper showing that such and such a lawyer appears for such and such an accused, and which has hitherto been in conformity with section 340 of the Criminal Procedure Code. The result of the amendment will be to require that every unfortunate person, who may after all be innocent whatever may be the result, whether he is convicted or honourably discharged, shall pay a fine of Re. 1 to the State. It is the same thing as a fine according to the original sense of the word as used in the English language. It will not be right, whether at the commencement of this Council, or at any stage, that we should sanction taxation for that purpose. If it is a question of uniformity, another Bill may be brought forward to rectify the mistake."

The hon. Sir CHARLES TODHUNTER:—"Mr. President, a reference has been made more than once to the question of revenue, whether we really require any revenue under this head. We do require a great deal and, as a matter of fact, the revenue anticipated by the amendment of the Court Fees Act has not been realized by many lakhs of rupees. But I do not think that this is primarily a revenue measure at all. Hon. Members who were present at the last Council will recollect there was no question then raised of the poor man or of the accused. What was the point then in issue? A vakalatnama was required to bear a stamp. We required the same stamp to be affixed to a memorandum of appearance by an advocate. The memorandum of appearance by a vakil escaped our notice. In fact, I may say that in my experience as a magistrate, I cannot remember ever meeting with such a memorandum. It was quite a discovery to me to find that there was this rule in the Criminal Rules of Practice. I think, moreover, that hon. Members have rather lost sight of the wording of the rule since they have laid stress all the time on the hardship of making the poor accused person pay a fee. This rule is that whenever a pleader representing a party

[Sir Charles Todhunter]

[29th November 1923]

to a criminal proceeding—not an accused person—does not file in court a vakalatnama from his client, such pleader shall be required to file a memorandum that he is appearing on behalf of the party whom he claims to represent. As I said, when I was a magistrate, and I think my hon. Colleague will bear me out, a memorandum of appearance of this sort was never filed. Vakalats always used to be filed. But the rule has now become better known and the profession have taken advantage of it and now we have reached the position that in some courts vakalats are never filed at all. Only memoranda of appearances are filed.

“A great deal has been said about the King’s justice. Is it the King’s justice, I would ask, to require the tax-payer to pay for a great part of the time of the criminal courts to be spent in inquiring, as it is at present, into cases of civil nature? I think hon. Members present who represent the profession will bear me out in saying that a vast amount of the time and, therefore, of money is wasted in inquiring into petty and frivolous complaints which ought to be brought in civil courts. As Mr. Venkataramana Ayyangar has said, all that is necessary is to give discretion to excuse the poor accused. My hon. Colleague is ready to meet him there. If it is a question of giving discretion to excuse the payment of a fee by a poor man, we are quite ready to do that, but not to allow persons who wish to bring petty and frivolous complaints to make the tax-payer pay for giving him an expensive trial without any charge. We are absolutely ready to meet hon. Members in the matter of discussion how to exempt the poor men, and I do ask this House to let this Bill go to the Select Committee so that they may devise a means for doing what hon. Members wish us to do.”

1-15 p.m. Mr. ABBAS ALI KHAN :—“Mr. President, Sir, I was a member of the Select Committee appointed to consider the last Court Fees Act (Amendment) Bill. The hon. the Law Member, the late Sir Srinivasa Ayyangar, then told us that barristers were not required to pay stamp duty in civil cases as vakils and that to remove the inequality, he suggested that they too should be deprived of their historic privilege and should agree for the levy, as we were living in progressive times. It was not, however, intended to mulct the barristers in criminal cases, and so I consented readily that barristers too should pay the fee on memoranda of appearance required to be filed in civil cases. Sir, after the Bill was first published, I was the first to run up to the late Law Member and tell him that when I had to appear before the courts in Madura and Ramnad, I was asked to pay one rupee stamp even in criminal cases, when he replied that he never contemplated it in the Bill. But reading the section, he admitted there was some difficulty and promised that he would rectify it by an Amending Bill. Now, Sir, when by this Amending Bill even in criminal cases the fee is sought to be levied, the sense of the House is in favour of the poor accused who should not be so mulcted. When there is a case hanging over him already, he should not be called upon to pay this additional fine. I perfectly agree with that view. Sir, there is also another alternative suggested by some hon. Members here that, for the sake of uniformity, the barristers too should be exempted from the payment of one rupee in criminal cases. But my hon. Friend, Mr. Satyamurti, said that justice should not be had on payment only of one-rupee taxation. I am afraid the hon. Member has entirely misunderstood the situation, for we have been allowing ourselves to

29th November 1923] [Mr. Abbas Ali Khan]

be taxed for the administration of justice ; our stamp duties and other fees go towards the administration of justice. Then, Sir, the hon. the Leader of the House has asked us why the tax-payer should be mulcted for the sins of the litigant who rushes to court of law on frivolous or trivial grounds. I personally think that the complainant ought to be made to pay the one rupee and not the accused. The hon. the Law Member has, however, told us that the matter could be looked into at the Select Committee stage, and I agree with him. I, therefore, think that the Bill should be allowed to go before the Select Committee."

Mr. S. MUTTAYYA MUDALIYAR :—" Mr. President, Sir, the hon. the Leader of the House in supporting the motion observed that a good deal of time of the criminal courts was taken up in disposing of cases of a frivolous or a trivial nature and for which remedies could be got in civil courts and said that lawyer members of this House would substantiate his statement. I most humbly challenge that statement, for I feel certain that at the highest only 2 or 3 per cent of the criminal cases may have a civil litigation at the bottom. It may be so only in cases of proceedings under section 145 of the Criminal Procedure Code or in cases of technical theft which arise out of dispute as regards possession of property. I believe these are the only cases where civil disputes are sought to be settled in criminal courts and these cases will not be more than two or three per cent of the total number of cases in criminal courts. The hon. the Leader of the House also asked why the tax-payer should contribute to the luxury that complainants or accused have of support by lawyers. I believe, Sir, that the revenues of the country are raised for the protection of the person and property of the subjects and the person who goes to court goes as a tax-payer as well and he is entitled to have the protection that he seeks. What are courts of justice for and what are taxes paid for are questions which do not arise here. But I should say, Sir, that every individual is entitled to seek for protection of his person and property. In criminal courts certain people have been exempted and on certain people have been imposed a fee and the additional fee that is now sought to be imposed is not justifiable. The hon. the Law Member was of course willing to have the accused exempted from the operation of the present Amending Bill. But, Sir, I really do not see the reason why those who seek justice be taxed and those who are accused and who perhaps put in false defences should escape. My humble submission to this House is that all people who resort to criminal courts should not be made to pay any additional taxation by way of vakalatnamas or memoranda of appearance. My hon. Friend Mr. Abbas Ali Khan, who was a member of the Select Committee on the previous Amending Bill, has told us that it was never the intention of the Select Committee to tax the litigants in criminal cases and that the Bill was only intended to cover civil suits. And if that object of the Select Committee has not been properly carried out by the Statute, the remedy will be to bring an amendment to the Act so as to include even advocates among legal practitioners required to pay fees in civil cases and not, as is proposed by the present Bill, to extend the levy to criminal cases. My hon. Friend, Mr. Satyamurti said that the party in power which leads by a glorious majority of one, as he said, has not given the lead in this matter and in spite of his challenge, the Leader on the Ministerial Benches has not yet told us what the view of the party is on the matter. Mr. Satyamurti said

[Mr. S. Muttayya Mudaliyar] [29th November 1923]

that the party was leading by a majority of one, but, Sir, I think he is not correct. It seems to be leading by a minority of two for, Sir, the voting of yesterday. . . ."

Rao Bahadur O. TANIKACHALA CHETTIYAR :—" Mr. President, is the voting of yesterday relevant to the discussion on this Bill ?"

The hon. the PRESIDENT :—" I may say at this stage, probably to the convenience of hon. Members, that I am going to make an announcement just before we rise for lunch as to what exactly is the voting. So, if hon. Members will keep patient just for a few minutes, they will be gratified to have the actual figures of the voting. The hon. Member, Mr. Muttayya Mudaliyar, may now go on with the Court Fees Act (laughter)."

Mr. S. MUTTAYYA MUDALIYAR :—" The remark was made about the party in power and if, Sir, you think it is not necessary, I will leave it there. I submit to this House that there is absolutely no reason for allowing this Bill to go to the Select Committee. The hon. the Law Member was kind enough to say that the Select Committee can consider the question of exemption of the accused. His estimate by way of revenue was about 2½ lakhs and if the accused is exempted from payment, I take it that the additional income will only be about half of it. From the statement of the hon. the Finance Member it did not appear that the Government was in need of this additional income. And even if further revenues were needed, I wish once more to reiterate the statement already made that it is not advisable to introduce this Bill at the very first meeting of this Council. I wish to call upon the Ministers to give us the assurance that they do not treat this as a party measure and give the lead to this House by asking it to vote unanimously against it."

Mr. C. MUTTAYYA MUDALIYAR :—" Sir, as a new member of this House, I do not want to give my support at the very outset to a proposal for additional taxation. Whatever anomalies there may be in the existing law, and I am afraid there are too many of them, I do not want to meet them by proposals involving additional taxation. The hon. the Law Member can seek to remove the anomalies that at present do exist without an additional levy of this kind. That, Sir, is the feeling of all parties in this House. I do not think, Sir, it is necessary to refer it to a Select Committee, and I strongly oppose the motion."

Mr. R. SRINIVASA AYYANGAR :—" Mr. President, Sir, I am one of those who believe that Government have absolutely no right to make any money or profit out of the administration of criminal justice and that criminal courts ought not to be used as media for getting income to the State. If I understood the hon. the Leader of the House aright, he made a significant statement that a great deal of time of the criminal courts was being taken up by disposal of petty or frivolous complaints or complaints of a civil nature. If that is really so, sufficient remedy is provided for in the Criminal Procedure Code itself. Section 203 of the Code confers on the magistracy powers enabling them to dismiss complaints of a civil nature or frivolous or vexatious complaints. To ignore the remedy that exists at present and to penalise a large number of persons

A BILL FURTHER TO AMEND THE COURT FEES ACT, 1870, IN ITS 183
APPLICATION TO THE PRESIDENCY OF MADRAS

29th November 1923] [Mr. R. Srinivasa Ayyangar]

who unfortunately are driven to criminal courts is arguing in a vicious circle, and I am sorry to say that the time taken by the courts in this direction is not altogether a defensible point. It is a matter of common knowledge that for nearly sixty years, ever since the Act of 1861 was placed on the Statute Book, accused persons have not been asked to pay a court-fee and legal practitioners were appearing on their behalf. Time was, years ago, when we appeared on behalf of the accused, we said simply: 'we appear for so and so, accused' and we never used to file a memorandum. Thereafter, the rule 141 of the Criminal Rules came into operation and since then we have been simply filing memoranda of appearance. There is no reason or justification, and no case has been made out for taking away the privileges which have been enjoyed hitherto without any question and without any interruption for a long number of years. And it is also a matter of common knowledge that accused persons are obliged to incur heavy charges and I believe it is within the recollection of this House that quite recently even the price of copy stamps has been raised from 2 to 3 annas. All things considered, I venture to submit, it is incumbent upon us to vote against the introduction of this Bill."

X

APPROVAL BY HIS EXCELLENCY THE GOVERNOR OF THE ELECTION OF
DEPUTY PRESIDENT.

The hon. the PRESIDENT :—"Before the House rises for lunch, I have to inform hon. Members that His Excellency the Governor has been pleased to approve the election of Diwan Bahadur P. Kesava Pillai as Deputy President."

XI

ANALYSIS OF VOTING ON THE 'NO CONFIDENCE' MOTION.

Mr. C. RAMALINGA REDDI :—"Mr. President, with reference, Sir, to the debate which took place yesterday, I beg to thank you for having allowed a question of which I gave private and, I am afraid, very inadequate notice. I wish to know, Sir, if any analysis has been made of the votes that took place yesterday, especially with reference to one of the points mentioned in the terms of the address, namely, that the composition of the Ministry was against the deliberate verdict at the general election. Sir, you will be laying us all under a very great obligation indeed, if you will kindly inform this House how many of the elected Members voted for the address, how many of the elected Members voted against and how many of the elected Members remained neutral."

The hon. the PRESIDENT :—"It is a very unusual request, but I take it, it is due to the unusual circumstances. I hope it will not be made a precedent binding myself or my successors. I think hon. Members are aware that 108 Members voted, 43 *for* and 65 *against* the motion. All the 43 Members who voted for the address were elected Members (Applause). Of the 65 Members who voted against the address, 44 were elected Members."

Mr. C. RAMALINGA REDDI :—"Including the Ministers, Sir"?

The hon. the PRESIDENT :—"The Ministers are also elected Members."

[29th November 1923]

Mr. A. RAMASWAMI MUDALIYAR :—“ Do the 43 who voted for the address include would-be Ministers ? ”

Mr. C. RAMALINGA REDDI :—“ We are not in the confidence of His Excellency, Sir.”

The hon. the PRESIDENT :—“ I thought the hon Members were anxious to get me to give some information. If they want to give information to each other, they can do so immediately—during the lunch interval.”

The hon. Rao Bahadur A. P. PATRO :—“ May I, Sir, ask with your permission, with reference to the votes of yesterday, how many of those who voted for the Motion were Swarajists, how many Nationalists and how many non-Brahmans ? ”

The hon. the PRESIDENT :—“ That I cannot give for the obvious reason that we keep no record of the parties to which Members belong. Hon. Members are aware that parties in all countries are liable to change. They are peculiarly liable to change in Madras just now. And I have no right to give that information without the permission of the hon. Members themselves. I can only say whether they are elected or not.

“ I think I was saying that, of the Members who voted against the address, 44 were elected, 5 nominated officials, 13 nominated non-officials and 3 ex-officio Members. So the 65 is composed of 44 elected Members and 21 non-elected Members. In addition to this, I should say that 10 Members remained neutral of which one was a nominated official, 3 nominated non-officials and 6 elected non-officials. I presume that that information satisfies all hon. Members.”

Mr. C. RAMALINGA REDDI :—“ I beg to thank you, Sir.”

The Council then adjourned for lunch at 1.30 p.m.

A BILL FURTHER TO AMEND THE COURT FEES ACT, 1870, IN ITS APPLICATION TO THE PRESIDENCY OF MADRAS—*cont.*

The Council re-assembled at 2.30 p.m. with the Raja of Ramnad, Chairman, in the Chair, when the discussion on the Court Fees Act (Amendment) Bill was resumed.

Mr. J. A. SALDANHA :—“ Mr. President, Sir, I would like to propose an Amendment in the sense of the proposal that fell from the hon. the Law Member, namely, that of excluding the accused from the operation of the Bill, if I am not out of order.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, this is hardly the time for the moving of Amendments.”

The RAJA OF RAMNAD (*from the Chair*) :—“ The Motion simply is that the Bill to further amend the Court Fees Act be read in Council, and the House is now discussing that Motion only.”

Mr. J. A. SALDANHA :—“ In that case, Sir, I would propose the rejection of this Bill (cheers), and avoid all trouble. It is a fundamental principle of the British constitution, and, I believe, also of the British Indian constitution that Government should not sell justice, and any revenue derived from the court fees should not be more than the cost of the expenditure on the establishment and the maintenance of the Courts of Justice. My impression, and I think it is a correct impression, is that the income of the Government from court fees more than covers the cost of expenditure on the establishment and the maintenance of the courts. If that is the case, I

29th November 1923] [Mr. J. A. Saldanha]

would emphatically protest against any increase of taxation which goes beyond the reasonable limits of the fundamental principle of any administration, that is, that court fees should not exceed the actual expenditure on courts. Here, in this Amending Bill, it is proposed to levy a taxation which would be quite iniquitous so far at least as the accused, if not other parties, are concerned. And if the revenue is really in excess of the expenditure on the maintenance of the courts, I do not see any reason why we should not go back to the old state of things which had existed before the previous Amendment of the Court Fees Act. It is admitted, Sir, that that Amendment was conceived in a spirit of vindictiveness. . . .”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ It was never admitted, Sir, that it was conceived in a spirit of vindictiveness. All that was admitted was that developments of vindictiveness took place.”

Mr. J. A. SALDANHA :—“ There was some such impression, Sir. Anyhow from what has been stated by some hon. Members, we understood that it was conceived in a spirit of vindictiveness. From all accounts, I find that it was due to some sort of pique against a certain class of legal practitioners that the Amendment had been brought about, and if that was the case, I do not see any reason why we should retain this clause. I would, therefore, propose that the Bill should be rejected.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, Sir, with your leave, I propose to make a statement which I see will be generally acceptable to the House. The discussion that has proceeded so far has disclosed, I think, three facts ; that this Council in its very early infancy does not desire to commit itself, directly or indirectly, to what may be called a taxation enactment. That seems to be the first sentiment animating this Assembly. The second point is that so far as the accused persons in criminal cases are concerned, they ought not to be compelled to pay anything by way of court fees.

“ On the first point I shall have very little to say though my hon. Colleague the Finance Member might have to enter a caveat with reference to the principle animating the House. As to the second point, I have already stated that that point entirely meets with my sympathy. I really see that there may be cases of hardship and indeed of impossibility where it may not be financially possible for the accused to purchase the court-fee stamps, or it may not be possible for him physically to do so. And, therefore, the possibility of amending this Act so as to exempt the accused is a matter which will engage the attention of the Government. Now, the position as it stands is that an advocate has to pay one rupee, two rupees or three rupees in all cases, whether he files a memorandum of appearance or not. That anomaly which is generally admitted will have to be removed and, therefore, a Bill has to be brought forward and will be brought forward for that purpose, and if, as I conceive it, it is the sentiment of the House that a Bill removing that anomaly and exempting the accused person from payment of court fees is necessary, I am perfectly prepared to bring forward a separate Bill in that behalf. I may say at once that I do not desire it to be understood as giving any undertaking that in any Bill to be brought forward, the complainants will be exempted. That is a thing on which I do not desire to be understood as

[Mr. C. P. Ramaswami Ayyar] [29th November 1923]

giving any undertaking. Subject to that, and with the permission of the House, I would withdraw this motion, with permission to bring in another Amending Bill."

The motion was by leave withdrawn.

XII

THE TUTICORIN PORT TRUST BILL.

The hon. Sir CHARLES TODHUNTER:—"Mr. President, I beg leave to introduce a Bill to make provision for the regulation, conservancy and improvement of the port of Tuticorin and to move that the Bill be read in Council, and I hope nobody will think that this is a taxation measure (laughter).

"As the Council are aware, one of the most urgent essentials, if there is to be any real development of the resources of the Presidency, is the development of the means of communication. Under this head, there are three principal requirements, improvement of roads, improvement of railways and improvement of harbours. Roads are a matter for the local bodies and railways for the Government of India. The development of new harbours is generally a matter in the first instance for the Local Government.

"The position under the law is somewhat complex. There are two classes of dues levied at ports, viz., dues on the tonnage of shipping which are applied in the main to purposes connected with the safety of ships and mariners, and dues collected on goods and passengers which are applied to improving the facilities for the handling of cargo and for the convenience of passengers. Both go into special funds, the former administered by the officers of the Port Department, the latter by the harbour authorities. These authorities again fall into three categories, viz, (1) Landing and Shipping Fees Committees, (2) Port Conservancy Boards and (3) Port Trusts.

"The Madras Outports Landing and Shipping Fees Act, 1885, provides only for the levy of dues on goods imported into a port at rates fixed by Government and for the expenditure of these dues by Government through the Presidency Port Officer. There is no specific provision for any committee to administer these dues. It is customary to appoint committees to advise the Presidency Port Officer regarding the necessities of these ports, but these committees have no statutory powers.

"A Port Conservancy Board represents an advance on this stage but not a great one. The Indian Ports Act, 1908, provides for the appointment of a conservator of each port and there are certain sections under which power can be given to the conservator in regard to the employment of establishment, the carrying out of works, the provision of buoys, lights and other matters. The Act further admits of these powers being given to a body of persons. For want of a better law, therefore, the practice has grown up of appointing boards under this Act and giving them certain restricted powers in the larger of the minor ports.

"Port Trusts are confined to the major ports of Calcutta, Bombay, Madras, Rangoon, Chittagong and Karachi, and they have practically full powers.

"The present position in this Presidency is that we have a Port Trust only in Madras, Port Conservancy Boards at Cochin, Tuticorin and Cocanada; and Landing and Shipping Fees Committees at nine minor ports. I think it will

29th November 1923] [Sir Charles Todhunter]

be clear to the Council that now that we have large schemes of development in hand, it is essential that we should be able to give to the representatives of the interests concerned at the ports which we are developing much larger powers of taxation, expenditure and finance than they at present possess.

"The way to do this appears to lie in constituting at these ports Port Trusts on the lines of those at Calcutta, Bombay, Madras, Rangoon, Chittagong and Karachi. The three ports which we have selected for an advance are those of Cochin, Vizagapatam and Tuticorin. As the Council are aware, we have already embarked upon most important works at Cochin which have cost us up to date a sum of about twelve lakhs of rupees, in co-operation with the Darbars of Travancore and Cochin, and we are anxious to create a Port Trust there as soon as possible. The matter has been delayed till now owing to the difficulty in securing an agreement between all the parties concerned, viz., the Government of India, the Government of Madras and the Travancore and Cochin Darbars, and to the complex nature of the legislation that will be needed owing to the different Governments and territories that are involved. In the case of Vizagapatam, the attempt has hitherto been to work through the Bengal-Nagpur Railway and that fact and difficulties connected with the settlement of a scheme of finance for the harbour have hindered the introduction of a Port Trust there. In the case of Tuticorin, there are no complications of this sort, but another complication, namely, the proposal to reopen the question of the Pamban canal, has retarded action in connexion with the harbour for some considerable time. That scheme having been finally abandoned, we are now in a position to proceed with the development of the harbour as an independent scheme, and to enable us to do so the first thing to be done is to secure a proper Port Trust Act. When we have got one passed in the case of Tuticorin, we shall, I hope, be able to follow it in rapid succession with Bills based on the same model for Cochin and Vizagapatam.

"As regards the substance of the Bill, the Council will doubtless remember that we recently introduced very considerable amendments to the Madras Port Trust Act in order to bring it up to date. We have now embodied these amendments in the Bill for Tuticorin and, with the assistance of the Legislative Department, have revised the whole wording of the Act and imported several provisions from those in force in the other large ports. We hope that as a result the Bill will prove satisfactory to the Council and enable us with effect from the date on which it is brought into force to establish a semi-independent local body which will devote itself to the development of what we hope will soon become a major port, in which case it will pass from our control into that of the Government of India.

"I need hardly add in conclusion that, though the notice given has been short, there is no intention at all on the part of the Government to rush the Bill through. The only point arising at this stage is whether Tuticorin shall have a Port Trust. That is a question that has already been sufficiently considered and I believe that there are no two opinions upon it. The details of the proposed measure will be fully examined in the Select Committee and thereafter in the Council.

"I beg to move, Sir, that the Bill be read in Council."

The hon. Mr. C. P. RAMASWAMI AYYAR :—"I second it,"

[29th November 1923]

The motion that the Bill be read in Council was put and carried.

The Secretary then read the title of the Bill.

The hon. Sir CHARLES TODHUNTER :—“ I beg to move, Sir, that the Bill
2-45 p.m. be referred to a Select Committee consisting of the following gentlemen :—

Mr. C. Madhavan Nayar,
 „ Bradford Leslie,
 „ J. L. P. Roche Victoria,
 Rao Bahadur Cruz Fernandez,
 „ C. Gopala Menon,
 „ A. M. Murugappa Chettiyar,
 Mr. T. N. Bava Ravuttar Muhammad Sahib Bahadur,
 „ A. J. Leech,
 „ K. S. Ponnuswami Pillai, and
 The Mover.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ I second it.”

The motion was put and carried.

XIII

THE MADRAS STAGE CARRIAGES AND HACKNEY CARRIAGE (AMENDMENT) BILL.

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, Sir, this measure again, I am glad to say, does not fall within the category referred to in some of the earlier debates excepting to a limited extent which I shall presently explain. I shall first deal with the Bill in so far as it purports to repeal the Stage Carriages Act of 1861. That was a very early Act passed by the Government of India which originally did not apply to the Madras Presidency, but after the passing of the repealing Act of 1870, the Act was extended to the whole of British India with the saving clause that it shall not apply to carriages ordinarily plying for hire within the limits of a municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force. The Hackney Carriage Act of 1879 was passed to regulate and control carriages plying for hire within the town of Madras. It was revised by Act V of 1911 and has been extended from time to time to other municipalities and specified areas.

“ The distinction between the two Acts is this: while the Hackney Carriage Act is applied to towns or other specified areas, the Stage Carriages Act has been till now applied only to roads. As a matter of fact, it has become a dead letter in most places owing to the replacement of the stage carriages by motor and omnibuses on roads in the mufassal. The present Act gets rid of that distinction. Many defects have been found out in the working of the Stage Carriages Act, some of which I shall enumerate now. Under the Madras Hackney Carriages Act, by-laws may be made with regard to the examination and qualifications of drivers and the conditions of their employment. No such provision exists in the Stage Carriages Act. Under section 12 of the former Act the public are very well safeguarded from actual misconduct on the part of the driver. There is nothing like that under the Stage Carriages Act excepting protection to the occupants in the carriage against the driver in case of an assault. The only other protection which the Stage Carriages Act provides is that the driver should not be

29th November 1923] [Mr. C. P. RAMASWAMI AYYAR]

under 16 years of age. Under the Hackney Carriage Act, on the other hand, the carriages have to be registered and the drivers have to obtain licences. There is nothing corresponding to that in the other Act. Then again, it will be conceded that it is to the great advantage of the public that there should be some control over the rates of hire, but that is not possible now under the Stage Carriages Act. That control is being exercised, however adequately or inadequately, under the law which can be enforced under the Hackney Carriage Act, and the idea of the amendment is to put things on the same level. If the rates are higher, no control has been provided under the existing sections of the Stage Carriages Act. This Act has been extended only to a few districts, such as Salem, Ramnad and some other districts. There have been complaints from accredited citizens as to the imperfections of the Act and it is in accordance with the expressed desire of these representatives and in deference to their wishes that this amendment has been introduced. Moreover, there is no express power under the Hackney Carriage Act to extend it to any place outside Madras. The present amendment seeks to get rid of that.

"The other aspect of the matter is this. It has been pointed out that the existing scales, as will be seen from the Bill, were fixed in 1879. They were never altered since then. As hon. Members of this House have more than once stated that it is not their intention, at the present sitting of the Council at all events, to consent to any extra taxation, or to extra fiscal burdens, and as this may at first sight appear to be a taxation enactment, let me make that perfectly clear. The sole and simple object of these apparently fiscal measures is to make both sides of the budget balance. At present we are losing Rs. 8,000 in giving badges and licences to the people which cost us Rs. 8,000 more than the fee we are able to levy from them. It is not the intention of Government to make a single pie of profit out of the working of this Act. The actual figures will be placed before the members of the Select Committee and the sole object of the Government is to see that both sides of the budget are balanced. The Government ought not to lose anything by the working of this Act, and so long as that object is attained, we do not want to make a pie out of this Act.

"Let me examine the circumstances. The existing scale under the Hackney Carriage Act was fixed in 1879 and has never been altered since. The pay of the establishment has been raised; the badges and plates now cost us far more than they used to do. Expenses of working the Act have increased considerably. (I am reading from the Report of the Commissioner of Police). In the year 1923 the total expenditure under the Hackney Carriage Act was Rs. 13,160, whereas the income to Government under the various heads, including fines, came to only Rs. 7,327. It is only in order to remedy that and to make the Act self-supporting that we seek to levy these particular scales. It will be quite open to the Select Committee to scrutinize those figures to see where further modifications might be made.

"With these remarks, I commend this Bill and move that it be read in Council."

The hon. Rao Bahadur A. P. PATRO :—"I second it."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I wish to make a few observations on the Bill which has just been introduced. I have nothing to suggest against that portion of the Bill which seeks to repeal the Stage

[Mr. A. S. KRISHNA RAO PANTULU] [29th November 1923]

Carriages Act in its application to the Presidency of Madras. It has been pointed out by the hon. the Law Member that in places where it has been introduced, it has been found to produce considerable difficulties and that it has become necessary to repeal that Act and incorporate certain provisions in the Madras Hackney Carriage Act. What I would think would require further consideration before we can give our support to this Bill is as to the necessity for increasing the existing scale of fees under the Hackney Carriage Act. It has been pointed out that the necessity has arisen on account of the increase in the expenses of working the Hackney Carriage Act."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mainly in the cost of badges and similar expenses."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Yes, mainly in the cost of badges. Sir, I should think that before we accept the principle which this alteration would involve, the matter would require to have a careful and detailed examination. It has been suggested, as one of the reasons for the introduction of this measure, that in a matter like the working of the Hackney Carriage Act, the revenue to Government should approximate to the expenses incurred in the working of the Act, and the only means of bringing this about is to raise the fees. That is what is stated in the Statement of Objects and Reasons."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I may say, Sir, that the Retrenchment Committee, which was a committee appointed by this Council, definitely proposed this after considering other means of making the budget balance."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" With due deference to the Retrenchment Committee, Sir, which, after it found itself unable to effect retrenchment in certain directions, found it necessary to suggest this increase of fees, I should consider it quite undesirable that we should give our assent to a motion which involves the acceptance of a principle that in administering certain Acts, the revenue should approximate to the expenditure which we have to incur in working those Acts. I think, if this principle is accepted in this particular case, there will be other similar cases wherein Acts introduced in the interest of the public would necessitate the imposition of fees and the imposition of penalties for the purpose of covering the expenditure incurred in the working of those Acts. It is more on the general ground that we should not give our assent to that proposition that I oppose this portion of the Bill. I would also point out that the general increase of fees provided in this Bill is likely to cause considerable hardship when we include in this category even rickshaws, perambulators and other conveyances drawn by persons. When we know, as a matter of fact, that these conveyances, even though very large in number in a city like this, are not likely to give immense profits to the individuals concerned, I think we should rather hesitate before we give our assent to a measure of this description. I would, therefore, submit that though we may give our assent to that portion of the Bill which seeks to repeal the Stage Carriages Act in its application to the Presidency of Madras, it is quite unnecessary to amend the provisions of the Hackney Carriage Act so far as the increased scale of fees is concerned."

29th November 1923]

The motion that the Bill be read in Council was then put and carried.

The Secretary then read the title of the Bill.

The hon. Mr. C. P. RAMASWAMI AYYAR : —“ Mr. President, I move that
the Bill be now referred to a Select Committee, and the follow-
3 p.m. ing are the Members of the Select Committee, whose names
I commend for the acceptance of the House :—

The hon. the Raja of Panagal,

The Advocate-General,

Rao Bahadur C. Natesa Mudaliyar,

„ O. Tanikachala Chettiyar,

„ A. S. Krishna Rao Pantulu,

„ C. V. S. Narasimha Raju,

Rao Sahib S. Ellappa Chettiyar,

Mr. Abbas Ali Khan,

Mr. S. Satyamurti, and

The Mover.”

The hon. Rao Bahadur A. P. PATRO : —“ I second it.”

The motion was put and carried.

The RAJA OF RAMNAD (from the Chair) then read out to the Council the names of Members who have been nominated to the Finance Committee and said : “The Secretary will deliver to the Members a list of the nominated Members at his office at 4-30 p.m., and the hon. Members are requested to vote for six candidates and return them to the Secretary before 6 p.m. to-day. The Council will now adjourn and meet again some time early in December on a date to be fixed by the hon. the President of which due notice will be given to hon. Members.”

The Council then adjourned.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

